INTERIOR BOARD OF INDIAN APPEALS

Estate of Elbert W. Exendine, Sr.

53 IBIA 135 (04/20/2011)

Reconsideration Denied:
    54 IBIA 88

United States Department of the Interior

ESTATE OF ELBERT W. EXENDINE, SR.	))))))))	Order Docketing and Dismissing Appeal Docket No. IBIA 11-056 April 20, 2011

Elbert Wayne Exendine, Jr. (Appellant), appealed to the Board of Indian Appeals (Board) from an Order Denying Petition for Rehearing (Rehearing Order) entered on January 5, 2011, by Administrative Law Judge (ALJ) Richard L. Reeh in the estate of Elbert W. Exendine, Sr. (Decedent), deceased Delaware Indian, Probate No. P000074292IP. The Rehearing Order let stand a July 26, 2010, Order Determining Heirs, Approving Will and Decreeing Distribution, which had approved a May 30, 2005, will executed by Decedent. Appellant, Decedent's son, challenged the validity of the will, and argued that he and his sister should receive certain lands in Decedent's estate.

On receipt of the appeal, the Board ordered Appellant to serve copies of his notice of appeal on the ALJ and other interested parties, as required by 43 C.F.R. §§ 4.310(b) and 4.323. The Board's order required Appellant to inform the Board by March 11, 2011, that he had served the necessary parties, and advised Appellant that if he failed to respond, his appeal might be summarily dismissed without further notice. The Board's order was delivered to Appellant on February 15, 2011, as shown on the U.S. Postal Service's Track-and-Confirm service on its web site.

The Board has received no response from Appellant.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board dockets but dismisses this appeal for failure to prosecute.

I concur:

____// original signed____
Steven K. Linscheid
Chief Administrative Judge

____// original signed____
Debora G. Luther
Administrative Judge